

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOARDS OF TRUSTEES OF THE
SEATTLE AREA PLUMBING &
PIPEFITTING INDUSTRY HEALTH
WELFARE TRUST, *et al.*,

Plaintiffs,

v.

SPECTRUM SERVICES, INC., a
Washington corporation, UBI No.
601888144,

Defendant.

Case No. C23-910-RSM

ORDER GRANTING *EX-PARTE*
MOTION TO COMPEL PRODUCTION
OF EMPLOYMENT SECURITY
DEPARTMENT RECORDS

I. INTRODUCTION

This matter comes before the Court on Plaintiffs' *Ex-Parte* Motion to Compel Production of Employment Security Department Records. Dkt. #6. Pursuant to RCW 50.13.070, Plaintiffs request an order compelling production of personnel records of employees of Defendant Spectrum Services, Inc. ("Spectrum"), filed with the Washington State Employment Security Department.

II. BACKGROUND

This action is for benefit contributions allegedly due on behalf of employees working for Defendant Spectrum. Plaintiffs operate as Trust Funds under 29 U.S.C. § 186 and 29 U.S.C. §

1 1001 et seq. (ERISA). Dkt. #7 ¶ 3. On behalf of Spectrum, on October 15, 2002, Daniel K.
2 Williams, identifying himself as “Service Manager” entered into a Compliance Agreement
3 binding Spectrum to the terms of the Labor Management Agreement (“LMA”) between U.A.
4 Local 32 of Journeymen and Apprentices of the Plumbing and Pipefitting Industry (“Local 32”)
5 and the Mechanical Contractors Association of Western Washington (“MCA”). By signing the
6 Compliance Agreement, Spectrum agreed to make fringe benefit contributions to the Trust Funds
7 on behalf of employees performing covered work and to be bound by the Trust Agreements.
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9 The Trust Agreements require Spectrum to authorize Plaintiffs to audit and review
10 signatory employers, such as Spectrum’s, books and records to ensure that the employer had and
11 is contributing correctly and in compliance with the terms of the LMA and Trust Agreements to
12 the Trust Funds. Dkt. #1 ¶ 4.2. Plaintiffs allege that Spectrum has refused to provide the
13 documents and payroll records necessary to complete an audit of its books and records for the
14 period of October 2020 through current. *Id.* ¶ 4.4. Plaintiffs also allege that Spectrum has failed
15 to make timely employee benefit contributions to Trust Funds for the audit period of October
16 2020 through current. *Id.* ¶ 4.11.
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19 III. DISCUSSION

20 The Washington statute, RCW 50.13.070, requires specific findings to be included in a
21 subpoena directed to the Employment Security Department for production of confidential
22 unemployment compensation records. The statute provides as follows:
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24 Information or records deemed private and confidential under this chapter shall be
25 available to parties to judicial or formal administrative proceedings only upon a finding
26 by the presiding officer that the need for the information or records in the proceeding
27 outweighs any reasons for the privacy and confidentiality of the information or records.
28 Information or records deemed private and confidential under this chapter shall not be
available in discovery proceedings unless the court in which the action has been filed has
made the finding specified above. A judicial or administrative subpoena directed to the
employment security department must contain this finding. A subpoena for records or

1 information held by the department may be directed to and served upon any employee of
2 the department, but the department may specify by rule which employee shall produce
the records or information in compliance with the subpoena.

3 RCW 50.13.070.

4 Plaintiffs rely on self-reporting by employers to determine the amount of fringe benefit
5 contributions due on behalf of employees. Dkt. #7 ¶ 3. Plaintiffs allege that the only other way
6 to determine the amount of contributions due to the Trust Funds is by examination of the
7 employer's payroll records, including state taxing information such as the quarterly reports
8 submitted to the State of Washington Employment Security Department. *Id.* Plaintiffs indicate
9 that they have been attempting to obtain Defendant Spectrum's payroll records for over a year,
10 but it has been unresponsive to Plaintiffs' requests. *Id.* ¶ 4. Subsequently Plaintiffs are unable
11 to determine the amounts due or whether Spectrum inappropriately reported individuals for the
12 January 2016 through current period. *Id.* ¶ 5. Without complete records of payroll earnings and
13 hours worked, Plaintiffs cannot determine the amount of contributions due to establish the
14 amount of the money judgment in this action or whether benefits have been inappropriately
15 provided to ineligible employees. *Id.* ¶ 6. Plaintiffs claim that the Washington State Employment
16 Security Department is in possession of personnel records required by the State, which will show,
17 to some degree, the compensation paid to employees of Spectrum Services, Inc. *Id.* ¶ 7.

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19 In this case, Plaintiff Trusts have shown that the need for the records in this proceeding
20 outweighs any need for privacy and confidentiality of the records in question. The records are
21 necessary for further prosecution of this action. Without the payroll records, Plaintiffs cannot
22 determine the contributions owed. As for confidentiality concerns, Plaintiffs maintain that the
23 information will not be disclosed outside of the present litigation and will be maintained
24 confidentially. Dkt. #7 ¶ 8. Nonetheless, in granting the request for discovery, the Court will
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1 order the Plaintiff Trusts to submit a protective order governing the use of any employment
2 payroll records obtained for purposes of prosecuting this action.

3 **IV. CONCLUSION**

4 Accordingly, IT IS HEREBY ORDERED:

- 5 1) Plaintiffs' *Ex-Parte* Motion to Compel Production of Employment Security Department
6 Records (Dkt. #6) is GRANTED.
- 7 2) The Court finds the production of records in the possession of the Washington State
8 Employment Security Department regarding employees of Spectrum Services, Inc. for
9 January 2016 through current is necessary for the prosecution of Plaintiffs' case.
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- 11 3) The Court further finds that this necessity outweighs any interest in the confidentiality
12 or privacy of this information of the individual employees, if counsel for Plaintiffs treats
13 these records as confidential and discloses only such information as is necessary to
14 prosecute this action.
- 15 4) Pursuant to RCW 50.13.070, the Washington State Employment Security Department is
16 now ORDERED to produce copies of originals of all documents or records in its
17 possession related to employee reports of Spectrum Services, Inc. at a mutually agreed
18 time and place between the Department and attorneys for the plaintiffs, but in any case
19 and failing agreement, at the offices of the attorneys for the plaintiffs within twenty (20)
20 days of the date of service of this Order upon the Washington State Employment
21 Security Department.
- 22 5) Plaintiffs are ordered to submit a protective order governing the use of any employment
23 payroll records obtained for purposes of prosecuting this action.
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DATED this 5th day of September, 2023.

A handwritten signature in black ink, appearing to read 'R. Martinez', is positioned above the printed name.

RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE